

MEETING

POLICY AND RESOURCES COMMITTEE

DATE AND TIME

WEDNESDAY 14TH OCTOBER, 2015

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ

TO: MEMBERS OF POLICY AND RESOURCES COMMITTEE (Quorum 3)

Chairman: Councillor Richard Cornelius
Vice Chairman: Councillor Daniel Thomas

Dean Cohen
Tom Davey
Paul Edwards

Anthony Finn
Ross Houston
David Longstaff
Alison Moore

Alon Or-Bach
Sachin Rajput
Barry Rawlings

Substitute Members

Melvin Cohen
Geof Cooke

Alan Schneiderman
Mark Shooter

Reuben Thompstone
Arjun Mittra

You are requested to attend the above meeting for which an agenda is attached.

Andrew Charlwood – Head of Governance

Governance Service contact: Faith Mwende; 02083594917 faith.mwende@barnet.gov.uk

Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes of last meeting	1 - 4
2.	Absence of Members	
3.	Declaration of Members' Disclosable Pecuniary interests and Non Pecuniary interests (If any)	
4.	Report of the Monitoring Officer (if any)	
5.	Public Questions and Comments (if any)	
6.	Members' Items (if any)	
7.	CCS Liquid Fuel framework RM 1013 for Heating Oil Call-off for the period 1 October 2015 to 30 September 2017	5 - 10
8.	Crown Commercial Services (CCS) Liquid Fuel framework RM 1013 call-off for diesel fuel the period 1 October 2015 to 30 September 2017	11 - 16
9.	Extension of health contracts for provision of an Integrated Learning Disability Service	17 - 26
10.	The Barnet Group - Creation of new legal entities	27 - 38
11.	Committee Forward Work Programme	39 - 48
12.	Any other item(s) the Chairman decides are urgent	
13.	Motion to Exclude the Press and Public	
14.	The Barnet Group - Creation of new legal entities - Exempt	49 - 66
15.	Any other exempt item(s) the Chairman decides are urgent	

FACILITIES FOR PEOPLE WITH DISABILITIES

Hendon Town Hall has access for wheelchair users including lifts and toilets. If you wish to let us know in advance that you will be attending the meeting, please telephone Faith Mwendé; 02083594917 faith.mwende@barnet.gov.uk. People with hearing difficulties who have a text phone, may telephone our minicom number on 020 8203 8942. All of our Committee Rooms also have induction loops.

FIRE/EMERGENCY EVACUATION PROCEDURE

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by uniformed custodians. It is vital you follow their instructions.

You should proceed calmly; do not run and do not use the lifts.

Do not stop to collect personal belongings

Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions.

Do not re-enter the building until told to do so.

This page is intentionally left blank

Decisions of the Policy and Resources Committee

2 September 2015

Members Present:-

AGENDA ITEM 1

Councillor Richard Cornelius (Chairman)
Councillor Daniel Thomas (Vice-Chairman)

Councillor Dean Cohen
Councillor Tom Davey
Councillor Paul Edwards
Councillor Anthony Finn
Councillor Ross Houston

Councillor David Longstaff
Councillor Alison Moore
Councillor Alon Or-Bach
Councillor Sachin Rajput
Councillor Barry Rawlings

1. MINUTES OF LAST MEETING

RESOLVED – That the minutes of the meeting held on 9 July 2015 be approved as a correct record.

2. ABSENCE OF MEMBERS

None.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)

Councillor	Agenda Item	Interest Declared
Councillor Houston	Item 7	Non-disclosable pecuniary interest as he is a Council appointed representative on the Board of The Barnet Group Ltd.

4. REPORT OF THE MONITORING OFFICER (IF ANY)

None.

5. PUBLIC QUESTIONS AND COMMENTS (IF ANY)

John Dix made a public comment in relation to item 7 (Temporary Workforce Contract Update). Members asked questions following the comment, which were then answered by John Dix.

6. MEMBERS' ITEMS (IF ANY)

None.

7. TEMPORARY WORKFORCE CONTRACT UPDATE

The Committee considered the report.

The Committee;

RESOLVED –

1. To approve a one year contract extension, for the Temporary Agency Resource services currently provided within the ESPO framework via Comensura.
2. To authorise CSG Procurement to commence a review of Temporary Agency Resource requirements, assessment of cross London delivery and demand reduction in agency workforce arrangements to inform the future procurement of Temporary Agency Resource Services.

8. AGGREGATED PROCUREMENT

The Committee considered the report.

The Committee;

RESOLVED –To approve the procurement for a new Strategic Partner to deliver its Capital Programme for a period of 5 years with the option to extend up to a maximum of 2 years, with an estimated value of up to £150 million.

9. BARNET FOSTERING LOFT CONVERSION AND EXTENSION POLICY

The Committee considered the report.

The Committee;

RESOLVED –

1. To approve the Loft Conversion and Extension Policy for use by the Family Services Delivery Unit.
2. That the authority to issue interest free loans and grants to eligible fostering households (i.e. all Barnet approved fostering households whether in or out of the borough where they take children in care) for loft conversions and extensions, in line with the approved extensions and conversions policy, is delegated to the Family Services Director within the available approved budget.

10. COMMITTEE FORWARD WORK PROGRAMME


The Committee noted the work programme and agreed to change the date of the December meeting.

11. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT

None.

The meeting finished at 7.50 pm

This page is intentionally left blank

	AGENDA ITEM 7
	Policy and Resources Committee 14 October 2015
Title	CCS Liquid Fuel framework RM 1013 for Heating Oil Call-off for the period 1 October 2015 to 30 September 2017
Report of	Chief Operating Officer
Wards	All
Status	Public
Urgent	Yes
Key	Yes
Enclosures	None
Officer Contact Details	Amanda Allen, Procurement Manager Corporate and Street Scene amanda.allen@barnet.gov.uk Nigel Bell, Energy Resource Manager nigel.bell@barnet.gov.uk

<h3>Summary</h3>
<p>This report relates to the current call-off from the Crown Commercial Services (CCS) Liquid Fuel Framework Contract RM1013 and the continued use following the Liquid Fuel Team’s eAuction market refresh for the period 1 October 2015 to 30 September 2017</p> <p>This report highlights the requirement to authorise proceeding with further call off for a period of 2 year to commence 1 October 2015 to 30 September 2017 confirmed supplier for heating oil diesel with Certas Energy UK Ltd</p> <p>The report is urgent with regard to confirmation to supplier enabling continuity of heating oil to sites. The consequences of absence of confirmation would mean the supply of heating oil would cease under this framework arrangement leaving the schools and council sites which utilise heating oil unable to remain open and operate. This requirement has been highlighted and concurred by the Chief Executive and Chair of the Policy and Resources Committee.</p>

Recommendations

That the committee approve a 2 year requirement to proceed with a further call –off for CCS Liquid Fuel Framework for provision of heating oil with Certas Energy UK Ltd.

1. WHY THIS REPORT IS NEEDED

- 1.1 The London Borough of Barnet is currently signed up to a 2 year call-off contract which is due to expire on the 30 September 2015. CCS have conducted e-Auctions during the summer period 2015 for all framework customers to conduct a market refresh and cover a further Call-Off contract for the period between the 1 October 2015 - 30 September 2017. The purpose of this was to have a co-terminus end date for both the call offs and the framework

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Liquid Fuel Team Crown Commercial Service undertook a procurement exercise in 2013 for the supply of heating oil diesel in which London Borough of Barnet provided consumption details for inclusion in tender process. The procurement was compliant with EU legislation and a number of suppliers were invited to tender. Birlem Ltd was awarded the contract with effect from 1 October 2013 to 30 September 2015 on the grounds of its most economical advantageous tender.
- 2.2 CCS conducted an OJEU tender to establish a Framework Agreement for participating public sector bodies including London Borough of Barnet. A reverse auction was undertaken to establish savings across the framework which averaged at 25%. It was determined for this framework that a flat rate per litre would be applied for all customers using the framework. The invoiced costs will comprise commodity cost of fuel including duty, supplier margin, CCS Management charge and VAT. The commodity cost is a variable charge and referenced against market indices, the current rates for each fuel type will be issued by CCS on the first working day of each week.
- 2.3 CCS has completed its eAuction and identified Certas Energy UK Ltd as the nominated heating oil diesel supplier for the contract term 1 October 2015 to 30 September 2017. CCS has noted that process has achieved a 23% saving on supplier margins across the framework agreement compared to the suppliers opening bids. London Borough of Barnet as an existing participant of the liquid fuel oil contract provided consumption requirements for inclusion as a participant under the new contract arrangements.
- 2.4 The council continues to purchase heating oil (red diesel) via the CCS RM 1013 framework agreement. The total annual heating fuel contract usage for 2015/16 is forecasted based on previous consumption to be 222,330 litres. The total annual heating fuel contract usage for 2015/16 is forecasted based on previous consumption to be 222,330 litres. The estimated annual cost is

£115,256 based on an average unit cost of 51.84p per litre for 2014/15, which equates to £230,512 over the contract period 2015-17

- 2.5 Based upon forecasted consumption a saving of 12.23% c£1,022 over the previous supplier margins is anticipated for the contract period 2015-17.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 A review of approach to procurement of both heating and diesel fuel oil was proposed during the duration of the framework agreement was considered however, due to time constraints and the potential changes involving the new depot facilities provision alternative options have not as yet been considered and as the framework was let on a 2 year +1 +1, the London Borough of Barnet can exercise that option. Alternative options will be considered when the framework agreement ends in 2017.

4. POST DECISION IMPLEMENTATION

- 4.1 Presentation of this report to the Policy & Resources Committee authorises the Chief Operating Officer to award the call –off contract from the CCS Framework agreement RM1013, to Certas Energy UK Ltd
- 4.2 Upon receipt of approval of the recommendation to proceed with the award of, the new call-off contract will be completed.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Council's Corporate Plan 2015-20 states that the council working with local, regional and national partners will strive to ensure that Barnet is a place:
- of opportunity, where people can further their quality of life
 - where people are helped to help themselves, recognising that prevention is better than cure
 - where responsibility is shared, fairly
 - where services are delivered efficiently to get value for money for the taxpayer.

- 5.1.2 This report and the delivery of heating oil through a supplier from the Crown Commercial Services (CCS) framework supports the Corporate Plan by ensuring that services are delivered efficiently to get value for money for the taxpayer

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 The financial implication based on the estimated annual cost is £115,256 with an average unit cost of 51.84p per litre for 2014/15, equates to £230,512 over the remaining contract period 2015-17. This is identified within the budget.

5.2.2 The recommendation to authorise continued usage of framework RM1013 as this does not place an additional resource demand on the Council, delivers value for money, heating oil purchased through these services also provides economies of scale as it reduces the cost across stakeholders.

5.3 Social Value

5.3.1 In accordance with the provision of the Public Services (Social Value) Act 2013 consideration has been given for this service provision to secure benefits for the community, environment and value for money for the London Borough of Barnet.

5.4 Legal and Constitutional References

5.4.1 Report authorisation will enable entry into two year call off contract with Certas Energy UL Ltd and the extended use of the Crown Commercial Service (CCS) Liquid Fuel framework for the period 1 October 2015 to 30 September 2017. Preparation of the agreement will be supported by HB Public Law.

5.4.2 The council's Constitution - Appendix A to Responsibilities for Functions, states that Policy and Resources Committee is responsible for the overall strategic direction of the Council including Corporate Procurement, specifically to authorise procurement activity within the remit of the Committee and any acceptance of variations or extensions if within budget in accordance with the responsibilities and thresholds set out in Contract Procedure Rules.

5.4.3 Under Contract Procedure Rule 8.6 where the Council accesses an existing Framework Agreement, the Framework Agreement terms and conditions of contract must be used, amended as appropriate as permitted by the Framework Agreement.

5.4.4 This report seeks authorisation in accordance with Contract Procedure Rules 7.2 and Appendix 1 Table A which requires acceptance by the Policy and Resources Committee

5.4.5 HB Public Law has been consulted in this matter and will support in the completion of the Call off contract between the Council and Certas Energy UK Limited.

5.5 Risk Management

5.5.1 There are no known risks associated with this request.

5.6 Equalities and Diversity

5.6.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and

- other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people from different groups
- foster good relations between people from different groups

5.6.2 These have been considered with regard to the recommendation for authorisation to procure services and it is not considered that an Equalities Impact is required for this procurement.

5.7 Consultation and Engagement

5.7.1 Authorisation to proceed with procurement will enable communication with CCS Liquid Fuel Team overseeing the Framework RM1013, Certas Energy UK Ltd for heating oil diesel and site manages of identified sites to ensure continued provision.

5.8 Insight

5.8.1 Insight data as detail in section 2 has informed the review and will be taken forward to support preparation for a new procurement

6. BACKGROUND PAPERS

6.1 Cabinet Resources Committee 4 November 2013 Agenda Item 14 Contract Procurement Plan Appendix 1 Procurement Activity by Service Area <http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=151&MID=7460>

This page is intentionally left blank

	<p>AGENDA ITEM 8</p> <p style="text-align: center;">Policy and Resources Committee</p> <p style="text-align: center;">14 October 2015</p>
<p style="text-align: center;">Title</p>	<p>Crown Commercial Services (CCS) Liquid Fuel framework RM 1013 call-off for diesel fuel the period 1 October 2015 to 30 September 2017</p>
<p style="text-align: center;">Report of</p>	<p>Chief Operating Officer</p>
<p style="text-align: center;">Wards</p>	<p>All</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Urgent</p>	<p>Yes</p>
<p style="text-align: center;">Key</p>	<p>Yes</p>
<p style="text-align: center;">Enclosures</p>	<p>None</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Amanda Allen, Procurement Manager Corporate and Street Scene amanda.allen@barnet.gov.uk</p> <p>Nigel Bell, Energy Resource Manager nigel.bell@barnet.gov.uk</p>

<h2>Summary</h2>	
<p>This report relates to the current call-off from the Crown Commercial Services (CCS) Liquid Fuel Framework Contract RM1013 and continued use following the Liquid Fuel Team’s eAuction market refresh for the period 1 October 2015 to 30 September 2017.</p> <p>This report highlights the requirement to proceed with further call off for a period of 2 year to commence 1st October 2015 to 30th September 2017 and to use identified supplier Harvest Energy Ltd for transport diesel.</p> <p>The report is urgent with regard to confirmation to supplier enabling continuity of transport diesel for fleet vehicles. The consequences of absence of confirmation would mean the supply of transport diesel would cease under this framework arrangement leaving the transport fleet unable to operate. This requirement has been highlighted and concurred by the Chief Executive and Chair of the Policy and Resources Committee.</p>	

Recommendations

That the committee approve a 2 year requirement to proceed with a further call –off for CCS Liquid Fuel Framework for provision of transport diesel with Harvest Energy Ltd

1. WHY THIS REPORT IS NEEDED

The London Borough of Barnet is currently signed up to a 2 year call-off contract which is due to expire on the 30 September 2015. CCS have conducted e-Auctions during the summer period 2015 for all framework customers to conduct a market refresh and cover the new Call-Off contracts for the period between the 1 October 2015 to 30 September 2017 . The purpose of this was to have a co-terminus end date for both the call offs and the framework.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Liquid Fuel Team Crown Commercial Service undertook a procurement exercise in 2013 for the supply of transport diesel in which London Borough of Barnet provided consumption details for inclusion in tender process. The procurement was compliant with EU legislation and a number of suppliers were invited to tender. Harvest Energy Ltd was awarded the contract with effect from 1 October 2013 to 30 September 2015 on the grounds of is most economical advantageous tender.
- 2.2 CCS conducted an OJEU tender to establish a call-off framework for participating public sector bodies including London Borough of Barnet. A reverse auction was undertaken to establish savings across the framework which averaged at 25%. It was determined for this framework that a flat rate per litre would be applied for all customers using the framework. The invoiced costs will comprise commodity cost of fuel including duty, supplier margin, CCS Management charge and VAT. The commodity cost is a variable charge and referenced against market indices, the current rates for each fuel type will be issued by CCS on the first working day of each week.
- 2.3 CCS has completed its eAuction and identified Harvest Energy Ltd] as the nominated transport diesel supplier for the contract term 1 October 2015 to 30 September 2017. CCS has noted that the process has achieved a 23% savings on supplier margins on supplier margins across the framework agreement compared to the suppliers opening bids. London Borough of Barnet as an existing participant of the liquid fuel oil contract provided consumption requirements for inclusion as a participant under the new contract arrangements.
- 2.4 The council continues to purchases transport diesel via the CCS RM 1013 framework agreement Continued purchase will deliver economies of scale due to the volumes accessed through the framework agreement which could not be achieved by an individual authority.

2.5 Transport diesel annual usage figures are circa 1,245,458 litres, which averages 23,951 litres per week with capacity for up to 40,000 litre weekly deliveries. The annual spend for 2014/15 for transport diesel was £1,254,695. Based upon forecasted consumption a saving of 42.77% c£8,840 over the previous supplier margins is anticipated for the contract period 2015-17 [

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 As the London Borough of Barnet is changing how services are being delivered and due to time constraints alternative options have not been considered, and as the framework was let on a 2 year +1 +1, the London Borough of Barnet can exercise that option. To not proceed with confirmation of continued use of the framework would risk the provision of transport diesel and have serious impact on the operation of the fleet vehicles. Alternative options will be considered when the framework agreement ends in 2017 and in line with London Borough of Barnet Estate, Objectives and Priorities.

4. POST DECISION IMPLEMENTATION

4.1 Presentation of this report to the Policy & Resources Committee authorises the Chief Operating Officer to continue with the Framework agreement RM1013 and to award the call of contract for the period October 2015 to September 2017 to Harvest Energy Ltd.

4.2 Upon receipt of approval of the recommendation to proceed with the extension the new call-off contract will be completed.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Council's Corporate Plan 2015-20 states that the council working with local, regional and national partners will strive to ensure that Barnet is a place:

- of opportunity, where people can further their quality of life
- where people are helped to help themselves, recognising that prevention is better than cure
- where responsibility is shared, fairly
- where services are delivered efficiently to get value for money for the taxpayer.

5.1.2 This report and the delivery of transport diesel through a supplier from the Crown Commercial Services (CCS) framework supports the Corporate Plan by ensuring that services are delivered efficiently to get value for money for the taxpayer.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 Contract Procedure Rules Appendix I, Table A identify that a procurement of this value including extension and variation is to be presented to committee.

5.2.2 The total annual diesel fuel contract usage for 2014/15 was 1,245,458 litres , costing, £1,254,695 at an average cost of £1.07 per litre. This expenditure is met by council fleet service users and external partners in this period.

5.2.3 The forecast volume of diesel fuel purchase for 2015/16 is estimated to remain relatively static at 1,300,000 litres, based on 2014/15 fuel usage, If the price does not fluctuate significantly in 2015/16 the diesel fuel cost will be **approximately** £1,309,642 **averaged** at £1.07 per litre, equating to £2,619,284 over the contract period 2015-17

Transport Diesel Fuel Schedule

MILL HILL DEPOT TRANSPORT DIESEL		
Site Name	Fuel Type	Estimated Annual Consumption - litres
Mill Hill Depot, Bittacy Hill, NW7 1BL*	Diesel	1,300,000

* Depot re-provision in December 2016 will include fuel bunkering which provides continuation of requirement for the duration of call-off from the framework

5.2.4 The purchasing of diesel fuel for the fleet through the CCS procurement contract provides the council with value for money and ensures sustainability within the changing oil market.

5.3 Social Value

5.3.1 In accordance with the provision of the Public Services (Social Value) Act 2013 consideration has been given for this service provision to secure benefits for the community, environment and value for money for the London Borough of Barnet.

5.4 Legal and Constitutional References

5.4.1 The council's Constitution - Appendix A - Responsibilities for Functions, states that Policy and Resources Committee:

- To be is responsible for the overall strategic direction of the Council including Corporate Procurement (including agreement of the Procurement Forward Plan and agreeing exceptions to CPRs)
- To authorise procurement activity within the remit of the Committee and any acceptance of variations or extensions if within budget in accordance with the responsibilities and thresholds set out in Contract Procedure Rules

5.4.2 Under Contract Procedure Rule 8.6 where the Council accesses an existing Framework Agreement, the Framework Agreement terms and conditions of contract must be used, amended as appropriate as permitted by the Framework Agreement.

5.4.3 This report seeks authorisation in accordance with Contract Procedure Rules 7.2 and Appendix 1 Table A which requires acceptance by the Policy and

Resources Committee

5.4.4 HB Public Law has been consulted in this matter and will support the completion of the new call off contract between the Council and Harvest Energy Ltd.

5.5 Risk Management

5.5.1 The CCS RM1013 Liquid Fuel contract offers means for the Authority to access the liquid fuel market through a collaborative procurement that delivers volume of scale for those participating.

5.5.2 The liquid fuel market is subject to fluctuation to support contract monitoring and management CCS provide a monthly update on the variable charge of commodity cost which is referenced against market indices

5.6 Equalities and Diversity

5.6.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010 advance equality of opportunity between people from different groups foster good relations between people from different groups. These have been considered with regard to the recommendation for authorisation to procure services and it is not considered that an Equalities Impact is required for this procurement.

5.7 Consultation and Engagement

5.7.1 Authorisation to proceed with procurement will enable communication with CCS Framework Team and Harvest Energy Ltd for transport diesel


5.8 Insight

5.8.1 Insight data as detail in section 2 has informed the review and will be taken forward to support preparation for a new procurement

6. BACKGROUND PAPERS

6.1 Cabinet Resources Committee 4 November 2013 Agenda Item 14 Contract Procurement Plan Appendix 1 Procurement Activity by Service Area
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=151&MID=7460>.

This page is intentionally left blank

	AGENDA ITEM 9 Policy and Resources Committee 14th October 2015
Title	Extension of health contracts for provision of an Integrated Learning Disability Service
Report of	Commissioning Director Adults and Health
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	None
Officer Contact Details	Rodney D'Costa, Head of Joint Commissioning Rodney.D'Costa@barnet.gov.uk 020 8359 4304 Sue Tomlin, Joint Commissioning Manager Sue.Tomlin@barnet.gov.uk

<h2>Summary</h2>
<p>In 2012 Barnet Council and NHS Barnet Clinical Commissioning Group (CCG) entered into a 3 year Section 75 Agreement for the Integrated Learning Disability (LD) Service. The S75 Agreement allowed the CCG and the Council to pool resources in order to create a single integrated service. The S75 Agreement identified Barnet Council as the Lead Commissioner.</p> <p>In 2011 Cabinet Resources Committee authorised procurement rules to be waived to enable the council as the Lead Commissioner to enter into contracts with Central London Community Healthcare NHS Trust (CLCH) and Barnet Enfield and Haringey Mental Health Trust (BEH MHT) for the provision of specialist learning disability health staff (commencing January 2012, for a three year term), extended to January 2016 through the annual forward plan. This enabled BEH MHT (psychiatry and psychology) and CLCH (community nursing) staff to work with social care staff as members of the new Integrated Learning Disability Service based at Barnet Council.</p> <p>This report asks for agreement from the Committee to extend the two health contracts that</p>

are funded by the CCG through the LD Section 75 pooled budget for a further two years. There will be no negative financial impact to the Council, as these contracts are funded by the CCG. However taking the time to ensure that integrated services are informed by national best practice, presents an opportunity to develop better value services through more innovative and efficient joint-working.

Recommendations

- 1. That the Committee agree a waiver of the Contract Procedure Rules to extend the contract with Central London Community Healthcare NHS Trust (CLCH) for the provision of health staff within the Integrated Community Learning Disability service from 1st February 2016 for the period of two years up to 31 January 2018.**
- 2. That the Committee agree a waiver of the Contract Procedure Rules to extend the contract with Barnet Enfield and Haringey Mental Health Trust (BEH MHT) for the provision of health staff within the Integrated Community Learning Disability Service (ILDS) from 1st February 2016 for the period of two years up to 31 January 2018**

1. WHY THIS REPORT IS NEEDED

- 1.1 To seek the agreement of the Committee to waive contract procedure rules in order to extend the two health contracts with Central London Community Healthcare NHS Trust (CLCH) and Barnet, Enfield and Haringey Mental Health Trust (BEH MHT) for provision of nursing and clinical staff within the Integrated Learning Disability Service for the period of two years (up to February 2018).
- 1.2 These are health contracts which are entirely funded by the CCG through the LD S75 pooled budget. The Council has lead commissioning responsibility through the Learning Disability Section 75 Agreement; permission is therefore required to waive contract procedure rules to extend the two health contracts with CLCH and BEH MHT by two years.
- 1.3 The CLCH contract provides community nursing staffing and the BEH MHT contract provides psychiatry and psychology staffing. Staff from both organisations are members of the Integrated Learning Disability Service, based at Barnet House. Both health and social care staff are managed by the Integrated Learning Disability Service Manager.
- 1.4 The rationale for the integrated service is that it is better able to deliver flexible person-centred support when required, while diverting people with learning disabilities away from institutional care. This was particularly critical in light of the national programme to close all NHS long stay and residential campuses and deliver personalisation in social care, which has resulted in the resettlement of more people with complex and challenging needs in the community. The need for an integrated approach was further driven by the significant transfer of investment from NHS England to the Council in April

2010, for the care and support of people with learning disabilities, which was agreed through a Section 256 agreement. It was also identified that significant reductions in public sector budgets would require more efficient ways of working.

- 1.5 In December 2012 the Department of Health published the Winterbourne View Concordat, following the abuse of people at Winterbourne View Hospital. This set out actions for all local authorities, CCGs, service providers and others to provide better assurance around the safety and safeguarding of people with learning disabilities and autism making use of health services. Work has continued to transform services for people with learning disabilities or autism and mental health conditions.
- 1.6 The Concordat set out a number of milestones including undertaking multi-disciplinary assessments for those in hospital settings and developing with clear plans so that those with no need for on-going treatment and collaboration between the council and CCG to ensure that appropriate services are in place to prevent the need for use of hospital based services.
- 1.7 The multi-disciplinary working of the Integrated Learning Disability Service is essential to achieving our Assuring Transformation (Winterbourne) commitments of discharging all people with learning disabilities from hospital settings back to the community. Joint working between specialist clinicians, nurses and social workers is vital to support people safely in the community. The council will need to work closely with Barnet CCG, CLCH and BEH MHT to ensure effective care co-ordination is in place and to achieve our shared priorities of timely discharge for those in hospital settings. The service will also identify those at risk of admission and ensure joint work through the integrated service to prevent needs from escalating (i.e. ensuring that there is quick access to therapies to support and keep people in the community).
- 1.8 Establishing Barnet's Learning Disability Service has been an on-going programme of work to design and mobilise an integrated service, developing new ways of working to deliver a multi-disciplinary service to service users. The service has integrated health and social care IT systems and client case records which has been a significant enabler to greater integrated practices.
- 1.9 The service has shown an upward performance trajectory across a number of key performance indicators. The 2013/14 Annual Social Care survey showed 100% service user satisfaction amongst learning disability service users. The number of learning disability clients in permanent residential and nursing placements has reduced, as the service has supported clients into more independent settings - since 2012/13, 29 people have been supported to move on from a residential setting¹. In 2015/16 the service is implementing a number of new initiatives aimed at avoiding escalating needs, prevention of hospital admission and speeding up hospital discharge.
- 1.10 In 2015 the Council and the CCG's Joint Commissioning Unit carried out a review of Barnet's Integrated Learning Disability Service. The review identified

¹ Representing 15% of Barnet's total learning disability population living in a residential setting in 2012/13

that there is evidence that good multi-disciplinary work is happening and that this has increased significantly in 2014/15. It was identified that retaining the current health providers for a further two years will give the Integrated Learning Disability Service the time and flexibility to focus on continuing to develop a joined-up approach to functional and strategic change.

- 1.11 In July 2015 NHS England, the Local Government Association (LGA), and the Association of Directors of Adult Social Services (ADASS) published a draft service model for commissioners of health and social care services, designed to improve the care of people with learning disabilities, shifting services away from hospital care and towards community-based settings. There are five 'fast track areas' who have been chosen by the NHS to test this draft model, with the aim of further refining the model in time for it to help commissioners across the country to better plan and shape learning disability services for 2016/17.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Extension of the two health contracts up to February 2018 will enable commissioners to incorporate both the emerging guidance from NHS England, LGA and ADASS and learning from the five 'fast track NHS' test areas and interdependent council programmes (i.e. 0-25 Service) into the design of this service and to carry out robust engagement and development with a small health market. The extension will ensure continuity of services for people with learning disabilities.
- 2.2 Providing this additional extension of the contracts will also enable continuous learning from the on-going shaping of multi-disciplinary work during 2015/16 within the current service.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 One option that was considered was that health contracts could be extended by just one year for new contracts to be mobilised in February 2017. This was not recommended as this option would still not give enough time for the Council and the CCG to adequately respond to emerging NHS guidance on learning disability models and for this guidance to be used to innovatively engage and shape the small market for these services. Procurement advice is that approaching the market in 2016, for services to be mobilised in 2017, would likely require the Council to develop an interim procurement solution (i.e. a one year contract), before re-engaging the market to develop a longer-term innovative solution. This would cause duplication of cost for the council in terms of procurement costs and would not deliver better outcomes for people with learning disabilities.

4. POST DECISION IMPLEMENTATION

- 4.1 Following the extension of these health contracts within the Integrated Learning Disability service, the Head of Integrated Care, Learning Disabilities and Mental Health Services will continue to develop the service in-line with

emerging national and local best practice to ensure that adults with learning disabilities continue to be supported to access mainstream services and those with the most complex needs are supported to achieve person centred outcomes.

- 4.2 There are a range of commissioning options post 2018 which are being developed and will be presented to future meetings of the relevant Committee.
- 4.3 The Learning Disability Section 75 Agreement expires 1st February 2016. Given the national policy requirements and the Council's aims for people with learning disabilities (set-out in the Adults and Safeguarding Commissioning Plan 2015-2020), there is a need to extend the partnership agreement to continue to commission, provide and develop integrated Learning Disability Services and to address the time period of the new contracts. The intention is that when the Learning Disability Section 75 expires in February 2016, it will be extended and added as a schedule to the overarching Adults Section 75 Agreement between the Council and the CCG previously agreed by (Cabinet in July 2013) in order to streamline the administration of S75s between the two organisations. The action will be taken under delegated powers in accordance with the constitution.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The council's Corporate Plan for 2015-2020 sets out four strategic objectives:

- to ensure that Barnet is a place of opportunity, where people can further their quality of life
- where people are helped to help themselves, recognising that prevention is better than cure
- where responsibility is shared, fairly
- where services are delivered efficiently to get value for money for the taxpayer

5.1.2 Extension of the two contracts for health staff within the service will assist with meeting these objectives, by enabling more time and flexibility for the council to increase efficient multi-disciplinary working. This will enable the service to continue to develop a more preventative model of support, increasing the quality of life for people with learning disabilities and their family and carers.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 A key benefit of integrated services is that they provide an opportunity to achieve value for money, through the targeting of joint resources and by better managing the interdependencies of health and social care.

5.2.2 Extending both of these health contracts will not have a negative financial impact for the Council. The contracts with CLCH (£1,057,166 per annum) for community nursing staff and for BEH MHT (£614,087 per annum) for

psychiatry and psychology services are entirely funded through CCG contributions to the LD S75 pooled budget. The Pooled Budget is managed by the Head of Integrated Care - Learning Disabilities and Mental Health and overseen by the Health and Wellbeing Finance Group, a formally constituted sub-group of the Health and Wellbeing Board.

- 5.2.3 Extending these contracts for two years will reduce the procurement costs, as the two year extension will avoid the cost of the Council having to invest in implementing an interim procurement solution, ahead of a longer-term procurement solution being developed and implemented following emerging guidance from NHS England.

Organisation	Annual CCG funding for CLCH and BEH MHT contracts
CCG contribution to LD S75 pooled fund	CLCH: £1,057,166 per annum BEH MHT: £614,087 per annum

Value for money

Integrated health and social care services enable collaborative working and efficient targeting of joint resources, supporting value for money.

Procurement

- 5.2.4 As identified in paragraph 5.4.5, entering in to a two year extension will avoid duplication of costs and ensure a better service for Barnet residents. This is the recommended approach of the council's procurement and legal advisors.

Staffing

- 5.2.5 None. There will be no TUPE issues in respect of the staff in the integrated service; staff will continue to be employed by their respective organisations.

5.3 Social value

- 5.3.1 By extending these two health contracts, the Council will be able to ensure that the service specifications and service outcomes are informed by emerging national research from the Assuring Transformation (Winterbourne) Agenda and the five NHS test areas (see paragraph 1.11) and that the Council can shape the local health provider market, to ensure that people with learning disabilities will be supported by high quality community service to achieve good outcomes.

5.4 Legal and Constitutional References

- 5.4.1 Under section 75 of the NHS Act 2006, health and social care organisations can make contributions to a common fund, to be spent on agreed projects or delivery of specific services or delegated functions. These arrangements are often referred to as 'section 75 agreements' or 'health act flexibilities
- 5.4.2 Health and social care contracts are now subject to the Public Contracts Regulations 2015, where the estimated contract value is more than £625k.

- 5.4.3 However, contracts can be extended without a competitive tender where it becomes necessary to purchase new services from the original contractor and that purchase was not included in the original procurement. This permitted change can only be relied on where a change of contractor cannot be made for economic or technical reasons, and would cause significant inconvenience or substantial duplication of cost for the contracting authority.
- 5.4.4 In addition, the change is allowed as it does not result in an increase in price of more than 50% of the value of the original contract, which in this case includes the contract term between the former PCT and the two providers.
- 5.4.5 This provision allows the extensions because of the unique status of the contractors and the nature of the personal services they provide, and to go out to tender for only a one year contract would probably cause significant inconvenience and substantial duplication of cost for the council. Additionally, the extension addresses the risk of the council approaching the market with an immature specification that would not accurately reflect emerging national guidance and would not best support the future priorities of the Council and the CCG.
- 5.4.6 In compliance with the Public Contracts rules the Council will send a notice advising of the contract extensions to the EU Publications Office for publication.
- 5.4.7 The council's Constitution - Appendix A - Responsibilities for Functions, states that Policy and Resources Committee:
- To be is responsible for the overall strategic direction of the Council including Corporate Procurement (including agreement of the Procurement Forward Plan and agreeing exceptions to CPRs)
 - To authorise procurement activity within the remit of the Committee and any acceptance of variations or extensions if within budget in accordance with the responsibilities and thresholds set out in Contract Procedure Rules
- 5.4.8 The Council Constitution, Contract Procedure Rules, 15.1 states that if the application of these Contract Procedure Rules prevents or inhibits the delivery or continuity of service, Directors or Assistant Directors, Commissioning Directors and Heads of Service may apply for a waiver. All applications for a waiver of these Contract Procedure Rules must be submitted to Policy and Resources Committee specifically identifying the reason for which a waiver is sought, including justification and risk.
- 5.4.9 This report seeks to extend the contract under rule 14 and waive rule 15.4 of the CPR and extend the contracts for a 2 year period.

5.5 Risk Management

- 5.5.1 The extension addresses the risk of the council approaching the market with an immature specification that would not accurately reflect emerging national guidance and would not best support the future priorities of the Council and

the CCG. This would likely require the Council to develop an interim procurement solution (i.e. a one year contract), before re-engaging the market to develop a longer-term innovative solution. Developing an interim procurement solution would cause significant duplication of cost for the council and would not be making best use of resources or deliver better outcomes for people with learning disabilities.

5.6 Equalities and Diversity

- 5.6.1 The core provisions of the Equality Act 2010 came into force on 1 October 2010 and the public sector equality duty (section 149 of the Act) came into force on 5 April 2011. Under section 149, the council must have due regard to the need to eliminate discrimination, harassment and victimisation prohibited under the Act and to advance equality of opportunity and foster good relations between those with protected characteristics and those without.
- 5.6.2 The protected characteristics are age; disability; race; gender reassignment; pregnancy and maternity; religion or belief; sex; and sexual orientation. They also cover marriage and civil partnership with regard to eliminating discrimination.
- 5.6.3 Any organisation providing public sector services is subject to scrutiny by the council to ensure that delivery complies with the public sector equality duty.
- 5.6.4 People with learning disabilities are one of the most marginalised groups in society. In addition to being socially excluded with limited opportunities in employment, education and in using mainstream services, they also experience significant health inequalities due to limited access to health services and diagnostic overshadowing.
- 5.6.5 The Integrated Learning Disability Service is a multi-disciplinary service, which supports access to mainstream community services and to directly support adults with learning disabilities with the most complex needs. Promoting safe, person-centred support and evidence based interventions, directing people with learning disabilities away from institutional responses to crisis and, wherever possible, flexibly supporting people in their everyday surroundings.
- 5.6.6 Allowing sufficient time for services for people with learning disabilities to be robustly informed by national guidance and local best practice, will ensure that people with learning disabilities are supported by the right services to enable them to attain the best outcomes.

5.7 Consultation and Engagement

- 5.7.1 The Learning Disability Partnership Board, which includes service users, family carers and people with learning disabilities, are being kept informed about the proposed extension to the current arrangements for health staff within the Integrated Learning Disability Service.
- 5.7.2 Further engagement with service users and key stakeholders is planned as part of future commissioning activity.

5.8 Insight

- 5.8.1 Barnet's Joint Strategic Needs Assessment points to an increase in the number of people with learning disabilities over the coming years as they live longer.

The Estimated Number of People in Barnet with Moderate or Severe Learning Disabilities

Number of people 2015	Number of people 2021	Number of people 2030
1,507	1,591	1,694

(Source: Projecting Adult Needs and Service Information (PANSI) and Projecting Older People Population Information (POPPI))


- 5.8.2 The 15-19 age group in Barnet has the highest proportion of people with moderate or severe learning disabilities (0.68%). Many of the young people moving to adult services will have multiple and complex health and care needs.
- 5.8.3 Nationally the life expectancy of people with learning disabilities has increased over the course of the last 70 years (Emmerson and Baines 2010).² In Barnet the number of people aged over 65 with moderate or severe learning difficulties is estimated to rise from 143 in 2015 to 187 in 2030; a rise of over 30%. As the Barnet's learning disability population ages they will share the same age-related physical and psychological changes as other older people and there are a number of age related conditions that people with learning disabilities are at greater risk of developing (i.e. dementia).
- 5.8.4 As Barnet's learning disability population grows, along with the number of people with multiple complex health and care needs, the Integrated Learning Disability Service will have a significant role in developing new ways of working to support people with increasingly complex needs to access preventative support to avoid their needs escalating and to ensure that they have good outcomes.

6. BACKGROUND PAPERS

- 6.1 Delegated Powers Report, [20 January 2015](#) authorised: the extension of Learning Disability Section 75 Agreement up to 31 January 2016
- 6.2 Policy and Resources Committee, [13 January 2015](#), authorised that the existing Barnet Enfield & Haringey Mental Health Trust learning disability contract be extended up to 31 January 2016.
- 6.3 Policy and Resources Committee [21 July 2014](#), decision authorised that the existing contract with Central London Community Healthcare be extended up to 31 January 2016.
- 6.4 Cabinet Resources Committee [18 July 2013](#) authorised the development of an overarching Section 75 Agreement between London Borough of Barnet and NHS Barnet Clinical Commissioning Group (CCG)

² Emerson, E and Baines, S (2010) *Health Inequalities and People with Learning Disabilities in the UK. Improving Health and Lives 2010.*

- 6.5 Delegated Powers Report 2082, Cabinet Member for Adults, 1 April 2013
- 6.6 Delegated Powers Report 1577, 15 February 2012, varied the decision of the Cabinet Resources Committee dated 27 September to authorise the council to enter into contract with CLCH commencing 1 February 2012.
- 6.7 Cabinet Resources Committee [27 September 2011](#), authorised the Council as the Lead Commissioner to enter into contract with NHS providers, Central London Community Healthcare NHS Trust and Barnet, Enfield and Haringey NHS Mental Health Trust.
- 6.8 Cabinet Resources Committee, [13 January 2011](#), approved a pooled fund for integrated community learning service in Barnet to be established

	<p align="center">Policy and Resources Committee 14th October 2015</p>
<p align="center">Title</p>	<p>The Barnet Group – Creation of new legal entities</p>
<p align="center">Report of</p>	<p>Chief Operating Officer, London Borough of Barnet Interim Chief Executive Officer, The Barnet Group</p>
<p align="center">Wards</p>	<p>All</p>
<p align="center">Status</p>	<p>Public with accompanying exempt report and appendix</p>
<p align="center">Urgent</p>	<p>No</p>
<p align="center">Key</p>	<p>Yes</p>
<p align="center">Enclosures</p>	<p>None</p>
<p align="center">Officer Contact Details</p>	<p>Troy.henshall@barnethomes.org 020 8359 5208 James.yurky@barnethomes.org 020 8359 3171 Jo.williams@barnet.gov.uk 020 8359 3165</p>

Summary
<p>At its meeting of 29th June 2015 Housing Committee agreed the draft Heads of Terms for a new 10 year Management Agreement with The Barnet Group (TBG).</p> <p>To support the delivery of the Agreement TBG proposes to create a new legal entity as a Trading Company and a new subsidiary of Barnet Homes. This report sets out the details of these two new organisations and seeks council approval for their establishment.</p> <p>Proposals for both the Trading Company and the Barnet Homes subsidiary have been approved by TBG Board and its appropriate Committee.</p> <p>The Council will retain control over the strategic direction and key decisions of The Barnet Group (TBG) through a shareholder agreement, an outline of which is summarised in this report.</p>

Recommendations
That the committee
1. Authorises the Commissioning Director, Growth and Development to finalise, agree and seal (in consultation with HB Public Law) the Shareholder Agreement with TBG.
2. Approves the creation of a Registered Provider subsidiary of Barnet Homes
3. Approves the creation of a new TBG Terms and Conditions Trading Company

1. WHY THIS REPORT IS NEEDED

- 1.1 In 2012 The Barnet Group (TBG) was created as a Local Authority Trading Company; an umbrella company to deliver services for Barnet Council (LBB), who are the sole shareholder.
- 1.2 Housing Committee at its meeting of 29th June 2015 approved draft Heads of Terms for the development of a new 10 years Management Agreement with TBG for the delivery of housing services, along with a financial savings plan of £2.85m to support the delivery of new affordable housing within Barnet.
- 1.3 The creation of the new legal entity and Registered Provider (RP) subsidiary within TBG will support the delivery of the new Management Agreement and associated savings.

2. REASONS FOR RECOMMENDATIONS

2.1 Shareholder Agreement

- 2.1.1 The creation of a shareholder agreement between the Council and TBG will ensure that LBB retains control over the strategic direction and key decisions of TBG and any other 'Teckal Company' which becomes party to the shareholder agreement. It also regulates the business and affairs of any Trade Company which becomes party to the Agreement.
- 2.1.2 Teckal refers to the now codified rule of EU procurement law, set out in Regulation 12 of the Public Contracts Regulations 2015, under which the requirement for open advertisement and tendering for public contracts does not apply as between the controlling body and the controlled company. The council must be able to evidence that it exercises overall control of the company for it to be Teckal compliant, that more than 80% of the activities of the controlled company are carried out in the performance of tasks entrusted to it by the Council, and that there is no direct private capital participation in the controlled company. The formal Shareholder Agreement assists in defining and proving this relationship.

2.1.3 The shareholder agreement sets out how each company will operate and be regulated, including the matters which are reserved to the Council and the scheme of delegation. For example, the Council must approve:

- Variations to the constitution and articles of the company
- Creation of new subsidiaries; amalgamations and mergers and selling or disposing of any part of the company
- Management of the business of the company, such as changing the name or nature of the business
- All business and financial plans and variances to these
- The appointment of Directors and CEO

2.1.4 Trading companies and subsidiaries can be added to or removed from the Shareholder Agreement by completing a 'Deed of Adherence', which forms part of the Agreement.

2.2 Creation of Registered Provider subsidiary of Barnet Homes

2.2.1 TBG propose to create a new subsidiary company of Barnet Homes to operate as a Registered (Housing) Provider. As an RP Barnet Homes will be able to become an asset owner.

2.2.2 Through the new Management Agreement, LBB will be seeking Barnet Homes to develop new social housing for rent. If Barnet Homes were to own the new homes that it builds, it has pledged to contribute £2000 per property, on practical completion, to the Council's General Fund costs of providing the Homelessness Options Service. This means if Barnet Homes were to build and subsequently own, say 500 homes during the next 10 year period, a saving against the General Fund budget in excess of £6m would be generated, once the homes were completed. This would also result in a decrease in expenditure, through a reduction in the use and costs of temporary accommodation of around a further £6m.

2.2.3 Some further work is required to complete the modelling based on the above: Barnet Homes will need additional capital to build the homes as there is insufficient headroom within the Housing Revenue Account (HRA). One possibility is a loan from LBB to TBG utilising PWLB funds. This is an attractive option as it would also generate further income for the Council through an arms length commercial loan charge, in keeping with State Aid Rules. The option is subject to further analysis and due diligence with a potential report to Policy and Resources Committee in December. Nevertheless, it is key requirement in the first instance that a new RP subsidiary is created.

2.2.4 Creating a new RP subsidiary will require an application to the Homes and Communities Agency (HCA) as Barnet Homes must be assessed to ensure it meets the regulatory criteria for an RP. Assuming that Barnet Homes are successful in their application - which it is anticipated they will be, RP status should be awarded around March 2016.

2.2.5 Achieving RP status conveys a number of other benefits for LBB and Barnet Homes too:

- RP status provides comfort to lenders and partners that an organisation is bona fide and regulated
- Barnet Homes RP will be eligible to receive financial assistance from the HCA and / or Greater London Authority (GLA) towards new build costs.
- Barnet Homes have a time limited offer of some £2,465,000 in funding from the GLA which is at risk of loss if RP status is not forthcoming. BH has already delayed release of these funds pending RP status and subsequent registration with the HCA.
- BH RP will be able to claim relief from Stamp Duty Land Tax on the acquisition of property where the transaction is funded with the assistance of public subsidy.
- BH RP will be able to procure other social housing and take up new development opportunities if there is an advantageous business case in doing so
- It will provide greater financial flexibilities for the future. For example, if Government decide to introduce a policy of selling the top 10% value council owned homes as they become void (empty), it may be possible that BH RP could acquire them for continued use as social housing, if the Council so desired, to ensure they remain with the 'Barnet family'.

2.2.6 There are no significant risks or disadvantages to the Council in TBG creating a new RP subsidiary, although it is worth noting that the Council cannot utilise its accumulated Right to Buy Receipts on developing new homes through Barnet Homes RP. The main change will be for Barnet Homes and TBG in that there will be new regulatory requirements that they will need to meet on an on-going basis. However, these requirements are minimal for RPs owning less than 1000 units.

2.3 **Creation of new Trading Company to enable TBG to offer different terms and conditions of employment**

2.3.1 TBG is currently obliged to offer all staff, both new and existing, the same terms and conditions of employment that are provided by the Council. This means that TBG's employment costs are higher than many other housing and care providers, as the private sector invariably provides a less generous remuneration and pension package for its staff.

2.3.2 TBG have a changing workforce cohort: The average age of an employee is now younger, owing in part to a commitment to graduate and apprentice schemes. Being restrained by offering the same benefits as the Council is considerably more expensive for the business, especially the cost of the LGPS.

2.3.3 TBG propose to establish a trading company that will recruit and employ all new staff with a different range of employment benefits. Significant savings can be achieved, particularly, by replacing the LGPS scheme with an off-the-shelf Master Trust solution. A new flexible benefits package will help to

mitigate the loss of membership of the LGPS and will support the organisation in being more competitive.

- 2.3.4 The start-up and running costs for the first five years of the new Trading Company will be in the region of £187,000 (£72,000 as one off costs in year one and c£22,000 per annum thereafter), with projected net savings after these costs of c£340,000. This saving will enable TBG to reduce its overheads and costs and provide financial savings to support the achievement of the budgetary savings target it has been set.
- 2.3.5 TBG propose to recruit the new CEO as the first employee within the Trading Company, demonstrating their commitment and giving credibility to the new entity. If approval is not granted or delayed for the creation of the new Trading Company, TBG will need to recruit to this role on existing terms and conditions at an additional cost of around £13,000 per year.
- 2.3.6 Furthermore, it will jeopardise the efficiency targets TBG have committed to delivering and increase the risk of escalating costs.
- 2.3.7 A further benefit in establishing a separate Trading Company is that it will limit the risk of the pension deficit. This means there will be no risk of it increasing further and therefore the liability to the Council will not increase over time.
- 2.3.8 It is envisaged over time that the new Trading Company would employ the majority of all staff across TBG and charge costs back to each individual organisation within the Group.
- 2.3.9 TBG propose to use the 'Hays' salary pay scale within the new Terms and Conditions Trading Company which is nationally recognised and widely used throughout the sector. TBG will continue to deliver their commitment to paying the London Living Wage (LLW). The Hay model is to align pay scales to market comparable sectors and employers and deliver benefits over the longer term.
- 2.3.10 TBG will be responsible, through the new Trading Company, for setting up the new pension arrangements and there are no financial implications for LBB.
- 2.3.11 TBG do not propose to make any changes to the terms and conditions of employment of existing staff, who transferred from LBB to TBG under TUPE, unless their situation changes. For example, through an individual's application for a different role or promotion to management grade. In these circumstances there would be a change to some of their benefits package, but not to their holiday entitlement or LGPS pension membership if applicable, under their current terms and conditions of employment.
- 2.3.12 A summary of the main changes to the terms and conditions of the new Trading Company are summarised in appendix 3 of part 2 of this report, exempt under Schedule 12A of the Local Government Act 1982. These relate to:

- Pension
- Laptops
- Mobile Phones
- Dental Insurance
- Dining Cards
- Holiday trading
- Medical Cash plan
- Childcare Vouchers

2.3.13 In addition to these choices, discount vouchers would be available at 'Go Live' offering online cash back, voucher codes, shopping vouchers, reloadable cards, discounted cinema tickets and discounted holidays. New additional benefits can be added each year as part of an annual benefit election.

2.3.14 Whilst there is no statutory requirement to consult the unions, as existing staff will not be affected, TBG believes it is good practice to do so and have actively engaged in communications with both Unison and GMB. Employees have also been consulted directly.

2.3.15 Independent legal advice has been sought by TBG on this proposal which is provided at appendix 1 in the separate Part 2 report, along with the risks associated with establishing the new Trading Company.

2.4 TBG structural change

2.4.1 To visually represent the changes in organisation structure proposed within this report, figure 1 illustrates the current TBG structure and figure 2 the new proposed structure.

Figure 1



Figure 2



3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 Shareholder Agreement

3.1.1 The Council could choose to not put in place a Shareholder Agreement, however, this would mean that the Council would risk not being able to demonstrate that Teckal requirements are met, which has financial and legal implications. It would also mean that the Council would not have formal control over the strategic direction and key decisions of TBG.

3.2 Registered Provider subsidiary

3.2.1 The Council could continue to commission new build homes for social rent and retain ownership of them itself. However this would mean a missed opportunity to generate a substantial amount of additional income to offset the Council's General Fund pressures and would mean the benefits set out in 2.2.5 would not be realised.

3.2.2 The HRA headroom limitations are also likely to mean that the Council would be able to commission fewer homes to be built.

3.3 New Trading Company - Terms and Conditions of Employment

3.3.1 TBG could opt not to proceed with setting up a new legal entity for the recruitment of staff on new terms and conditions of employment. However this means TBG would continue to increase its operating costs and would not be able to deliver £143,000 of the £2.8m budget saving it has pledged. The budget saving to the Housing Revenue Account (HRA) is important in maximising the number of new homes the Council can build in the coming years, particularly in light of recent Government policy to reduce rents by 1%

per annum for the next four years: This has the direct impact of reducing the amount of headroom available within the HRA.

- 3.3.2 New terms and conditions of employment could be phased in over time for existing staff as well as new. However, there are significant reputational risks to both TBG, and the Council as shareholder, and this is not recommended. It would also be time consuming and have a negative impact on staff morale and retention. There would also be a risk of industrial action which would be likely to impact on service quality and provision.

4. POST DECISION IMPLEMENTATION

4.1 Barnet Homes RP subsidiary

- 4.1.1 Barnet Homes will apply for registration with the HCA. Professional expertise has been retained to support them with this process and ensure compliance with the new regulatory standards that will apply.
- 4.1.2 A shadow board will be put in place that represents the 'independent' requirements of the HCA in terms of governance. As part of the implementation process this will be replaced by a permanent Board structure in due course.
- 4.1.3 It is anticipated that Barnet Homes will achieve RP status for the subsidiary in March 2016 to enable it to start development from the commencement of the new Management Agreement in April 2016.
- 4.1.4 Detailed business planning for the RP subsidiary will be undertaken once it has been determined how the initial tranche of new homes it will build in partnership with LBB will be funded. This decision is likely to be made at Policy and Resources Committee December meeting.
- 4.1.5 Business and financial plans will be formally approved by the Council through the presentation of TBG's consolidated business plan, which is submitted annually for approval at Policy and Resources Committee early in each new calendar year.

4.2 The Terms and Conditions Entity

- 4.2.1 TBG will be responsible for managing the setup of the new Terms and Conditions Trading Company and for providing the start-up funding. This will include creating Articles of Association, detailed governance arrangements and incorporating the new Company with Companies House. There is no liability for LBB in the process.
- 4.2.2 Business and financial plans will be formally approved by the Council through the presentation of TBG's consolidated business plan which is submitted annually for approval at Policy and Resources Committee early in each new calendar year.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 As a not-for-profit company, fully owned by the Council, TBG provides a commitment to resident involvement; strong links with the local area; a fixed geographical focus, and close partnership working with the Council and other stakeholders.
- 5.1.2 TBG have a strong track record of delivering improvement, increasing performance outcomes and customer satisfaction: They are in a pivotal position to continue to deliver high quality services to contribute to the Council's strategic objectives.
- 5.1.3 The proposals in this report will further strengthen TBG's ability to continue to support the Council's need to deliver efficiencies and value for money and achieve savings, with a direct link to their £2.8m budgetary target.
- 5.1.4 TBG can directly contribute to the Council's priority to build more housing – and at a lower cost to the Council than could be expected through the open market.
- 5.1.5 This opportunity is maximised within the Management Agreement, in line with the Housing Strategy, which provides Barnet Homes with the opportunity to deliver new homes for affordable rent on HRA land.
- 5.1.6 The development of additional new homes for social rent through Barnet Homes maximises the use of HRA land and directly contributes to a reduction in the use and costs of temporary accommodation.
- 5.1.7 TBG have committed to re-investing surpluses generated through the development of new homes for affordable rent to offset overspends on the General Fund.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 The establishment of the new legal entity and subsidiary described in this report is unlikely to result in any additional costs, responsibility or liability to the Council.
- 5.2.2 Savings generated will create both financial efficiencies and generate income for the Council without impacting on the quality or provision of services
- 5.2.3 Professional services and fees will be procured and paid for by TBG.
- 5.2.4 TBG's existing IT infrastructure can be developed to support the new businesses at minimal costs, which again will be borne by TBG.

5.3 Social Value

5.3.1 The proposals contained within this report directly contribute to the wider social benefit of the residents of the borough.

5.4 Legal and Constitutional References

5.4.1 TBG has sought legal advice and this advice is incorporated as the Part 2 (exempt) of this report.

5.4.2 LBB has been separately advised throughout by Bevan Brittan and relevant advice is set out in the Part 2 exempt report

5.4.3 The Council's Constitution - Appendix A - Responsibilities for Functions, details the responsibilities for the Policy and Resources Committee including to:

- Approve budget and business plan of the Barnet Group Ltd.
- Be responsible for those matters not specifically allocated to any other committee affecting the affairs of the Council.

5.5 Risk Management and Consideration

5.5.1 There is a minor risk that TBG are unsuccessful in their application for RP status. However, they have appointed professionals with considerable experience in guiding organisations through this process and there is no reason to believe that an application will be unsuccessful. In this event the only risk to the Council is that the benefits as set out in section 2.2 of the report will not be realised.

5.5.2 The risks associated with the creation of the new Terms and Conditions Trading Company are included in the part 2 report and incorporated within the legal advice received

5.6 Equalities and Diversity

5.6.1 Other than those incorporated in this (and the part 2) report, there are no other implications arising from the recommendations.

5.7 Consultation and Engagement

5.7.1 Consultation has been undertaken and continues with Unison, GMB and directly with staff.

5.8 Insight

5.8.1 The Group have utilised benchmarking data as well as research conducted by external groups to form the views in proposing these entities and as set out in this report.

6. BACKGROUND PAPERS

- 6.1 (HRA) Efficiency Savings, Cabinet Resources Committee, January 2012, Future of Housing Services in Barnet -
<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201201161900/Agenda/Document%204.pdf>
- 6.2 Housing Committee June 2015, Commissioning and Delivery of Housing Services and the Management of the Barnet Housing Stock - Item 9 at:
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=699&MId=8264&Ver=4>
- 6.2.1 Housing Committee June 2015, Barnet Homes Housing Revenue Account Item 10 at:
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=699&MId=8264&Ver=4>

This page is intentionally left blank



Policy and Resources Committee
14 October 2015

Title	Policy and Resources Committee Work Programme
Report of	Chief Executive
Wards	All
Status	Public
Enclosures	Committee Work Programme October 2015-May 2016
Officer Contact Details	Faith Mwende: faith.mwende@barnet.gov.uk 020 8359 4917

Summary

The Committee is requested to consider and comment on the items included in the 2015-16 work programme

Recommendations

- 1. That the Committee consider and comment on the items included in the 2015-16 work programme**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Policy and Resources Committee's Work Programme 2015-16 indicates forthcoming items of business.
- 1.2 The work programme of this Committee is intended to be a responsive tool, which will be updated on a rolling basis following each meeting, for the inclusion of areas which may arise through the course of the year.
- 1.3 The Committee is empowered to agree its priorities and determine its own schedule of work within the programme.

2. REASONS FOR RECOMMENDATIONS

- 2.1 There are no specific recommendations in the report. The Committee is empowered to agree its priorities and determine its own schedule of work within the programme.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 N/A

4. POST DECISION IMPLEMENTATION

- 4.1 Any alterations made by the Committee to its Work Programme will be published on the Council's website.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Committee Work Programme is in accordance with the Council's strategic objectives and priorities as stated in the Corporate Plan 2015-20.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 None in the context of this report.

5.3 Legal and Constitutional References

- 5.3.1 The Terms of Reference of the Policy and Resources Committee is included in the Constitution, Responsibility for Functions, Annex A.

5.4 Risk Management

- 5.4.1 None in the context of this report.

5.5 Equalities and Diversity

- 5.5.1 None in the context of this report.

5.6 Consultation and Engagement

5.6.1 None in the context of this report.

6. BACKGROUND PAPERS

6.1 None.

This page is intentionally left blank

**London Borough of Barnet
Policy and Resources
Committee Work Programme
October 2015 - May 2016**

Contact: Faith Mwende; 02083594917 faith.mwende@barnet.gov.uk

Title of Report	Overview of decision	Report Of (officer)	Issue Type (Non key/Key/Urgent)
14 October 2015			
Creation of a new legal entity within The Barnet Group	To approve the business case for the creation of a new legal entity within The Barnet Group with new company terms and conditions including a new pay and grading model, pension scheme and a flexible benefits solution.	Interim Chief Executive, Commissioning Director, Growth and Development	Key Issue
Extension of health contracts for provision of an Integrated Learning Disability Service	To approve a waiver the Contract Procedure Rules to extend the contracts with Central London Community Healthcare NHS Trust (CLCH) and Barnet Enfield and Haringey Mental Health Trust (BEH MHT) for the provision of an Integrated Community Learning Disability service for 1 year up to 31 January 2017	Commissioning Director (Adults and Health)	Key Issue
Crown Commercial Services (CCS) Liquid Fuel framework RM 1013 call-off for diesel fuel the period 1 October 2015 to 30 September 2017	To approve a 2 year requirement to proceed with a further call –off for CCS Liquid Fuel Framework for provision of transport diesel with Harvest Energy Ltd	Chief Operating Officer (Director of Finance / Section 151 Officer)	Key Issue & Urgent

Subject	Decision requested	Report Of	Contributing Officer(s)
CCS Liquid Fuel framework RM 1013 for Heating Oil Call-off for the period 1 October 2015 to 30 September 2017	To approve a 2 year requirement to proceed with a further call –off for CCS Liquid Fuel Framework for provision of heating oil with Certas Energy UK Ltd.	Chief Operating Officer (Director of Finance / Section 151 Officer)	Key Issue & Urgent
16 December 2015			
North London Business Park - Draft Planning Brief	To provide a statement of the Council's vision for the site and set guidance to inform the preparation of development proposals. The Brief will be subject to public consultation and will prior to consideration of a planning application enable the Council to set out how the site can be brought forward for residential led development within the context of the Local Plan policy framework.	Commissioning Director, Growth and Development	Key Issue
Draft Grahame Park Phase B Supplementary Planning Document	To approve the Supplementary Planning Document for the regeneration of Grahame Park for consultation	Commissioning Director, Growth and Development	TBC
Discretionary Business Rate Relief	To receive a report on the discretionary business rate reliefs	Chief Operating Officer (Director of Finance / Section 151 Officer)	Key Issue

Subject	Decision requested	Report Of	Contributing Officer(s)
Draft Planning Brief - National Institute for Medical Research (NIMR)	<p>This report seeks approval for the draft Planning Brief for the NIMR site in Mill Hill. The draft Brief sets out the parameters for a residential led mixed use development.</p> <p>The draft Brief will be subject to a period of public consultation prior to adoption in 2016.</p>	Commissioning Director, Growth and Development	Non Key Issue
West Finchley Neighbourhood Plan	This report seeks approval for the formal designation of the West Finchley Neighbourhood Plan Area and Forum. Designation represents the first step for producing a Neighbourhood Plan.	Commissioning Director, Growth and Development	Non Key Issue
Business Planning 2015/16 to 2019/20.	To approve the Business Planning priorities for the period 2015/16 to 2019/20	Chief Operating Officer (Director of Finance / Section 151 Officer)	Key Issue & Urgent
Draft Affordable Housing Supplementary Planning Document	To approve the draft Supplementary Planning Document for Affordable Housing for consultation.	Commissioning Director, Growth and Development	Key Issue
Customer Access Strategy	To approve the Customer Access Strategy	Director of Strategy	Key Issue
Extension of Family Services contracts	To approve the extension of Family Services contracts.	Family Services Director	Key Issue

Subject	Decision requested	Report Of	Contributing Officer(s)
12 January 2016			
Site Allocations (Reg 18)	To approve the Draft Site Allocations document for public consultation.	Commissioning Director, Growth and Development	Key Issue
16 February 2016			
22 March 2016			
Grahame Park Stage B Supplementary Planning Document	To approve the Supplementary Planning Document for the regeneration of Grahame Park following consultation.	Commissioning Director, Growth and Development	TBC
Affordable Housing Supplementary Planning Document	To approve for adoption: Affordable Housing Supplementary Planning Document	Commissioning Director, Growth and Development	Key Issue
17 May 2016			
Draft Green Infrastructure Supplementary Planning Document	To approve the draft Supplementary Planning Document for Green Infrastructure for consultation.	Commissioning Director, Growth and Development	Key Issue
Date TBC			
Corporate Travel Contract Arrangements	To approve the procurement of a new corporate travel arrangement contract for a three year period.	Chief Operating Officer (Director of Finance / Section 151 Officer), Commercial and Customer Services Director	Key Issue

Subject	Decision requested	Report Of	Contributing Officer(s)
Changing scheme for financing schools		Chief Operating Officer (Director of Finance / Section 151 Officer)	Key Issue
Inter Authority Agreement between North London Waste Authority and its seven Constituent Authorities	To agree the Inter Authority Agreement between the North London Waste Authority (NLWA) and the seven constituent authorities. The main item in the Inter Authority Agreement is the agreement to change to menu pricing, which will alter the way in which the constituent authorities pay NLWA, which will lead to a fairer system. In 2014/15 Barnet's payments to NLWA will be approximately £11m.	Street Scene Director	Key Issue
Provision of support services for carers	To authorise the commencement of the procurement process for the provision of support services for carers.	Adults and Communities Director	Key Issue
Variation to Your Choice Barnet Day Services		Adults and Communities Director	Key Issue

AGENDA ITEM 14

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank